

FILED
BILLINGS DIV.

IN THE UNITED STATES DISTRICT COURT 5 PM 12 43

FOR THE DISTRICT OF MONTANA PATRICK E. DUFFY, CLERK

BY _____
DEPUTY CLERK

SANTIAGO VALDEZ,

Petitioner,

VS.

STATE OF MONTANA,

Respondent.

CV-07-109-BLG-RFC

ORDER ADOPTING FINDINGS AND RECOMMENDATION OF U.S. MAGISTRATE JUDGE

On August 15, 2007, United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation. (*Doc. 5*). Magistrate Judge Ostby recommends Valdez's petition (*Doc. 1*) be denied and all other pending motions (*Doc. 4*) should be denied as moot.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). However, in prisoner cases, this Court extends the time to object to twenty days in order to take into account the somewhat greater mailing time that is involved in sending documents into and out of a prison facility. On August 20, 24 & 27, 2007, Valdez filed three documents which purportedly contain objections to Magistrate Ostby's Findings and Recommendation. *Docs. 6, 7 & 8*. Valdez's objection requires this Court to make a *de novo* determination of those portions of the Findings and Recommendations to which objection is made. 28 U.S.C. § 635(b)(1).

Valdez's objections, to the extent the Court can decipher them, are not well-taken. All of Valdez's objections are simply variations of the arguments contained in his petition for writ of

habeas corpus: that he was unlawfully arrested without a warrant and without probable cause. In light of the fact that Valdez was subject to a felony warrant for robbery out of Indiana, Magistrate Judge Ostby correctly concluded that Valdez was properly arrested and these objections are overruled.

After a *de novo* review, the Court determines the Findings and Recommendation of Magistrate Judge Ostby are well grounded in law and fact and **HEREBY ORDERS** they be adopted in their entirety.

Accordingly, **IT IS HEREBY ORDERED:**

- (1) Valdez's petition (*Doc. 1*) is **DENIED**; and
- (2) All other motions (*Doc. 4*) are **DENIED AS MOOT**.

The Clerk of Court shall notify the parties of the entry of this Order and close this case accordingly.

DATED this 5th day of September, 2007.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE